

Resolution No.: 15-931  
Introduced: March 8, 2005  
Adopted: March 22, 2005

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By County Council

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**SUBJECT:** To authorize Montgomery County, Maryland, pursuant to and in accordance with Chapter 20 of the Montgomery County Code (1994 Edition, as amended) to issue its parking revenue bonds in order to finance or refinance the costs of renovations to public parking facilities located in the Bethesda Parking Lot District; to make certain findings with respect to the issuance of such bonds and the construction of such parking facilities; to provide that the bonds shall be sold on a competitive basis; to provide that the County Executive and other County officials shall take all necessary, proper or expedient action to effect the issuance, sale and delivery of the bonds; and generally to provide for and determine various matters in connection with the bonds.

WHEREAS, pursuant to the provisions of Chapter 60 of the Montgomery County Code (1994 Edition, as amended) ("Chapter 60"), Montgomery County, Maryland (the "County") has established a special taxing district known as the Bethesda Parking Lot District (as further defined in Chapter 60, the "Bethesda PLD"); and

WHEREAS, Sections 5(P)(2) and 5(P)(3) of Article 25A of the Annotated Code of Maryland (2001 Replacement Volume and 2004 Cumulative Supplement) and Sections 20-47 through 20-54 of Chapter 20 of the Montgomery County Code (1994 Edition, as amended) (collectively, the "Revenue Bond Act") authorize the issuance from time to time of revenue bonds or other obligations of the County, payable as to principal, interest, and premium, if any, only from the funds or revenues received from or in connection with any project, all or part of which is financed from the proceeds of revenue bonds or other obligations; and

WHEREAS, the County has previously issued various issues of Montgomery County, Maryland Parking Revenue Bonds (the "Parity Bonds") under the provisions of the Revenue Bond Act, which Parity Bonds (i) are payable from the revenues of the Bethesda PLD and (ii) are subject to the terms and conditions specified in Order No. B160-92, executed and delivered by the County Executive of Montgomery County (the "County Executive") on February 28, 1992 and amended by Order No. B161-92, executed and delivered by the County Executive on April 16, 1992 (as amended, the "Bond Order"); and

WHEREAS, the County has determined that it is advisable and in the public interest to renovate certain public parking facilities in the Bethesda Central Business District, as previously approved as Projects #508255 and #500324, each as further described in the County's Approved FY05-10 Capital Improvements Program (collectively, the "Project"); and

WHEREAS, the County has determined that it is advisable and in the public interest to issue and sell its parking revenue bonds (the "Bonds") as "revenue bonds" (as defined in the Revenue Bond Act) to finance or refinance the "costs of the project" (as defined in the Revenue Bond Act) of the Project, a "project" within the meaning of the Revenue Bond Act; and

WHEREAS, the Director of Finance of the County has recommended that the Bonds be sold on a competitive basis to the bidder offering the lowest true interest cost to the County.

NOW, THEREFORE, Be it resolved by the County Council for Montgomery County, Maryland, that:

Section 1. The County hereby finds and determines that:

- a. The Project is a "project" within the meaning of the Revenue Bond Act.
- b. It is advisable and in the public interest to complete the Project.
- c. It is advisable and in the public interest to finance or refinance the costs of the Project through the issuance, sale and delivery of the Bonds.

Section 2. The County hereby authorizes the issuance, sale and delivery of the Bonds in a principal amount not to exceed Eighteen Million Dollars (\$18,000,000). The Bonds shall be issued and sold in accordance with the provisions of the Revenue Bond Act and the Bond Order.

Section 3. The Bonds shall not constitute a pledge of the full faith and credit and unlimited taxing power of the County.

Section 4. The County hereby covenants that the timely payment of the principal of and interest on the Bonds and any Parity Bonds issued to finance or refinance projects within or operated by the Bethesda PLD shall be secured equally and ratably by the Net Revenues (as defined in the Bond Order) of the Bethesda PLD without priority by reason of number or time of sale or delivery; and the Net Revenues of the Bethesda PLD are hereby irrevocably pledged to the timely payment of both principal, premium (if any) and interest on the Bonds and Parity Bonds issued to finance projects within or operated by the Bethesda PLD as set forth in the Bond Order or any other orders of the County Executive passed subsequent to the adoption of this Resolution.

Section 5. So long as the Bonds or any of them are outstanding and unpaid, the County hereby covenants to levy within the Bethesda PLD the special taxes payable pursuant to Section 60-3 of the Montgomery County Code 1994, as amended, in rate and amount which shall be sufficient in each fiscal year to maintain Net Revenues in such amount as shall be determined by the County Executive by Executive Order or otherwise.

Section 6. It is hereby determined that it is advisable and in the public interest to sell the Bonds on a competitive basis to the bidder offering the lowest true interest cost to the County. The County Executive is hereby authorized to solicit bids for the Bonds in such manner as he, in his sole and absolute discretion, by Executive Order or otherwise, deems to be in the best interest of the County. The County Executive is hereby authorized to cause to be prepared and distributed a preliminary official statement and a final official statement respecting the Bonds. The Bonds shall be designated, dated, bear interest at such rate or rates, be in such denominations, be payable at such times and at such places, mature in such amounts and on such dates, be subject to prepayment prior to their maturity, and be executed and sealed in such manner as the County Executive, in his sole and absolute discretion, shall determine, by Executive Order or otherwise. The County Executive may determine, by Executive Order or otherwise, in his sole and absolute discretion, to issue the Bonds in one or more series from time to time in an aggregate principal amount not to exceed the amount authorized by this Resolution.

Section 7. The County Executive may, by Executive Order or otherwise, approve the form and provisions of, execute and deliver the Bonds, and specify, prescribe, determine, provide for, approve, execute and deliver (where applicable) such other matters, details, forms, documents, or procedures, including (without limitation), bond purchase agreements, bond insurance agreements and trust agreements, as are necessary, proper or expedient to consummate the authorization, sale, security, issuance, delivery or payment of or for the Bonds.


Section 8. The County hereby covenants that it will take, or refrain from taking, any and all actions necessary to comply with the provisions of Section 103 and Sections 141 through 150, inclusive, of the Internal Revenue Code of 1986 as amended (the "Code"), applicable to the Bonds in order to preserve the status of the interest on the Bonds as excluded from gross income for Federal income tax purposes. Without limiting the generality of the preceding sentence, the County will (a) not use or permit the use of any of the proceeds of the Bonds in such manner as would cause the interest on the Bonds to be included in gross income for Federal income tax purposes, (b) make periodic determinations of the rebate amount and timely pay any rebate amount, or installment thereof, to the United States of America, and (c) prepare and timely file Internal Revenue Service Form 8038-G, Information Return for Tax-Exempt Governmental Obligations, or any successor or additional form required by the Internal Revenue Service.

Section 9. The members of the County Council, the County Executive, the Chief Administrative Officer of the County, the Director of Finance of the County, the County Attorney, and the Clerk of the County Council, for and on behalf of the County, are hereby authorized and empowered to do all things, execute all instruments, and otherwise take all such action as the County Executive may determine, by Executive Order or otherwise, to be necessary, proper or expedient to carry out the authority conferred by this Resolution, including (without limitation) the execution of certificates of the County, elections, statements and reports pursuant to applicable provisions of the Code and the U.S. Treasury Regulations prescribed thereunder, subject to the limitations set forth in the Revenue Bond Act, the Bond Order and this Resolution.

Section 10. The provisions of this Resolution shall constitute a contract between the County and the holder or holders of the Bonds and Parity Bonds, and after the issuance of the Bonds no change, variation or alteration of any kind in the provisions of this Resolution shall be made in any manner, except as the County Executive, by Executive Order or otherwise, shall provide, until such time as the Bonds and all of the Parity Bonds, and interest due thereon, shall have been satisfied and discharged as provided by the County Executive, by Executive Order or otherwise, prior to such issuance.

Section 11. This Resolution shall take effect upon its adoption.

This is a correct copy of Council action.

  
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Elda M. Dodson, CMC  
Acting Clerk of the Council